

**TITLE 146**  
**LEGISLATIVE RULE**  
**ELECTION COMMISSION**

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**TITLE 146  
LEGISLATIVE RULE  
ELECTION COMMISSION**

**SERIES 1  
CORPORATE POLITICAL ACTIVITY**

**§146-1-1. General.**

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**§146-1-1. General.**

1.1. Scope. — These regulations establish general rules on corporate political activity.

1.2. Authority. — W. Va. Code §3-8-8.

1.3. Filing Date. — May 24, 1996.

1.4. Effective Date. — June 7, 1996.

**§146-1-2. Definitions Of Terms As Used In These Regulations.**

2.1. “Corporation” means any entity legally incorporated, whether under the laws of West Virginia or any other state or any foreign country.

2.2. “Election Officer” means the officer or official who receives the pre-candidacy filing made by individuals running for public office, and includes the Secretary of State, the county clerk, and the municipal clerk or recorder, as set forth in W. Va. Code §3-1B-1 et seq.

2.3. “Executive or Administrative Personnel” means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional or supervisory responsibilities.

(a) This definition includes:

(1) The individuals who run the corporation’s business such as officers, other executives and plant, division and section managers; and

(2) Individuals following the recognized professions, such as lawyers and engineers.

(b) This definition does not include:

(1) Professionals who are represented by a labor organization;

(2) Salaried foremen and other salaried lower-level supervisors having direct supervision over

hourly employees;

(3) Former or retired personnel who are not stockholders; or

(4) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)-1 of the corporation for the purpose of income withholding tax on employee wages under Internal Revenue Code of 1954, §3402.

(c) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional or supervisory responsibility and if the individuals are employees within the meaning of 26 CFR 31.3401(c)-1 of the corporation for the purpose of income withholding tax or employee wages under the Internal Revenue Code of 1954, §3402.

(d) The Fair Labor Standards Act, 29 U.S.C. 201, et seq. and the regulations issued pursuant to that Act, 29 CFR 541, may serve as a guideline in determining whether individuals have policymaking, managerial, professional or supervisory responsibilities.

2.4. “Families” means spouses and unemancipated children.

2.5. “Person” means any individual, partnership, committee, association, corporation and any other organization or group of persons.

2.6. “Political Action Committee” means an organization that comes into existence by specific written authorization of the Board of Directors, or equivalent governing body, of one (1) or more corporation(s) the purpose of which is to solicit funds for, and make expenditures and contributions on behalf of, public issues or political candidates and their agents, political committees or political party committees.

2.7. “Restricted Group” means stockholders and their families, and executive and administrative personnel and their families, of a corporation, or when applicable, the members of an incorporated association or organization or group of persons, and the stockholders and their families, and executive and administrative personnel and their families, of such members.

2.8. “Stockholder” means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted (if it is voting stock), and has the right to receive dividends.

### **§146-1-3. General Prohibition.**

3.1. Except as permitted below by these regulations, no officer of any corporation (as defined by Section 6 herein), or agent or person (as defined by Section 6 herein), on behalf of such corporation, shall directly or indirectly make, or authorize to be made, or consent to: Any payment, distribution, loan, advance, deposit or gift of money or any services or anything of value belonging to such corporation, to any candidate, financial agent, political party, political committee or any other person, or make any expenditure whatsoever in connection with election to any local or state office, or in connection with any primary election or political convention or caucus held to select candidates for any local or state office.

3.2. No candidate, financial agent, political party committee, political committee or any other person shall knowingly accept or receive any payment prohibited by this section.

### **§146-1-4. Exceptions.**

The provisions of Section 2 of this rule shall not be deemed to prohibit:

4.1. Loans by commercial lending institutions made in accordance with applicable banking or lending laws and regulations, in the ordinary course of business.

4.2. Expenditures made for public editorials or commentaries produced in the ordinary course of business by corporations whose primary purpose is journalism or public communications.

4.3. Direct communications by a corporation to its restricted group on any subject defined by Section 6 of this rule, by any means not intended to reach the general public. Such communications by a corporation to its restricted group may be made by, but are not limited to, the following means:

(a) The distribution of printed material by a corporation to its restricted group: Provided, That

(1) The material is disseminated at the expense of the corporation; and

(2) The material clearly states that it constitutes a communication of the views of the corporation.

(b) The allowing of a candidate or party representative to address the restricted group of the corporation at any meeting, convention or other regularly scheduled function of the corporation which is primarily held for other purposes. The corporation shall pay no compensation whatsoever to such candidates. The candidate or party representative may address members of the restricted group in their individual rather than corporate capacities, and may at such time ask for individual contributions to his or her campaign or party, ask that such contributions be sent to his or her campaign or party, or ask that contributions to a Political Action Committee (as defined in Section 6 of this rule) of the corporation be designation for his or her campaign or party.

(c) The establishment and operation of phone banks by a corporation to communicate with its restricted group urging them to register and/or vote for a particular candidate or candidates.

(d) The conducting of nonpartisan registration and get-out-the-vote drives, as by providing transportation to the polls, by a corporation aimed at its restricted group. If a registration drive is undertaken, assistance in registering or voting may not be withheld or refused on a partisan basis, and if transportation or other services are offered in connection with a registration or get-out-the-vote drive, such transportation or services may not be withheld or refused on a partisan basis.

4.4. The establishment, administration and solicitation of contributions to a Political Action Committee, by means and in amounts as herein specifically provided:

(a) Establishment and administration of a Political Action Committee. — A Political Action Committee or persons acting on its behalf may, subject to the authorization of such corporation, use the real or personal property, facilities and equipment of any corporation that participated in the establishment or participates in the administration or solicits contributions on behalf of such Political Action Committee. The cost of such use of property, real or personal, facilities or equipment need not be reimbursed to the corporation so long as such costs are incurred in setting up and running the Political Action Committee. Such costs that need not be reimbursed include the costs of office space, phones, utilities and supplies.

(b) Any use of corporate property as described in Section 4.4 (a) immediately above is conditioned on such corporation also permitting any group of employees represented by a political committee registered with either the Secretary of State of West Virginia or the Federal Election Commission, to use, without reimbursement, the real property of such corporation solely to establish, administer and solicit contributions to such political committee. No such group of employees may use any such real property in such a manner as to significantly disrupt the normal operations or activities of the corporation.

(1) A corporation is prohibited from soliciting any contributions by use or threat of any physical force, job discrimination, financial reprisals or as a condition of employment, or by paying any contributor for his or her contribution through a bonus, expense account or other form of direct or indirect compensation.

(2) Any person soliciting for a contribution to a Political Action Committee must, at the time of the solicitation, inform the person or member being solicited of the political purposes of such Political Action Committee.

(3) Any person soliciting for a contribution to a Political Action Committee must at the time of the solicitation inform the person or member being solicited of the right to refuse to so contribute without any reprisal.

(4) A guideline for contributions may be suggested, and not enforced by any direct or indirect means: Provided, That the person soliciting, or the solicitation, informs the person being solicited:

A) That the guidelines are merely suggestions; and

B) That a person is free to contribute more or less than the guidelines suggest and that the corporation will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute.

(5) Any written solicitation for a contribution to a Political Action Committee must contain statements which comply with the requirements of Paragraphs (2) and (3) of this subsection, and if a guideline is suggested, statements which comply with the requirements of Paragraph (4) of this subsection.

(6) Subject to the above regulations, a corporation may, in making solicitations aimed solely at its restricted group for contributions to its Political Action Committee, utilize a payroll deduction plan, checkoff system or other plan which deducts contributions from dividend or payroll checks of its restricted group.

(7) Accidental or inadvertent solicitation. — Accidental or inadvertent solicitation by a corporation, of persons beyond those whom it is permitted to solicit, will not be deemed a violation: Provided, That such corporation has used its best efforts to comply with the limitations regarding the persons it may solicit and that the method of solicitation is corrected forthwith after the discovery of such erroneous solicitation.

#### 4.5. Use of corporate facilities by other persons.

(a) A corporation may, at its discretion, allow use of its real or personal property, facilities or equipment beyond such uses as described in Section 3.4 above, in connection with any political activity by any person. However, the cost of any such use of corporate property, real or personal, facilities or equipment under this rule must be reimbursed to the corporation within a commercially reasonable time, at normal and usual commercial rental rates; except that:

(b) Stockholders (as defined in Section 5 of this rule ) of the corporation and any employees of the corporation making use of corporate real or personal property, facilities and equipment under this Section 3.5 of this rule must reimburse all costs in excess of those that would arise from “Occasional, Isolated or Incidental” use. As to such occasional, isolated or incidental use, reimbursement will be required only to the extent that the overhead or operating costs of the corporation are increased. As used here, “Occasional, Isolated or Incidental Use” generally means:

(1) When use by corporate employees during working hours, an amount of activity during any

particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

(2) When used by corporate stockholders other than employees during the working period, such use does not interfere with the corporation in carrying out its normal activities; and/or

(3) Any such activity which does not exceed one (1) hour per week or four (4) hours per month, regardless of whether the activity is undertaken during or after normal working hours, shall be considered an occasional, isolated or incidental use.

#### **§146-1-5. Powers And Duties Of Political Action Committees Created By Corporations.**

5.1. All Political Action Committees must file notice of their existence with the appropriate election officer, as defined in section 2.8 above, prior to receiving or soliciting contributions.

5.1.1. No such committee may be formed within twenty-eight (28) days of any election in which the committee will be active.

5.2. Solicitation and acceptance of contributions.

(a) A Political Action Committee may solicit contributions and volunteer personal services solely from the restricted group(s) of the corporation(s) which established such Political Action Committee.

(b) All solicitations by Political Action Committees shall conform in method and manner to the provisions of Subsection 3.4 (c) above.

(c) A Political Action Committee is specifically prohibited from receiving any direct or indirect payment, distribution, discount, loan, advance, deposit, gift of money or any services or anything of value from any person other than the corporation(s) which established such Political Action Committee or the restricted group(s) of such establishing corporation(s).

(d) No Political Action Committee shall hold or sponsor any raffle, dance, banquet or similar fund-raising event directed to persons other than the restricted group(s).

5.3. Contributions and expenditure by Political Action Committee.

(a) No Political Action Committee shall directly or indirectly make any contribution in excess of the value of one thousand dollars (\$1,000) in connection with any campaign for nomination or election to or on behalf of any local or state office or in connection with or on behalf of any committee or other organization or person engaged in furthering, advancing or advocating the nomination or election of any candidate for any such office. For purposes of applying this one thousand dollar (\$1,000) limitation, all Political Action Committees established, maintained or controlled by the same corporation(s), including their respective parents, subsidiaries, branches, divisions, departments or local units, are aggregated into one (1) Political Action Committee. This one thousand dollar (\$1,000) limitation applies separately to contributions made in connection with the primary election for nomination of a candidate, and contributions made in connection with the election which determines the officeholder.

(b) Political Action Committees may make unlimited independent expenditures on public issues. — Political Action Committees may make unlimited independent expenditures expressly advocating the election or defeat of any issue or a clearly identified candidate: Provided, That such expenditures are made without cooperation or consultation with, or at the suggestion of, any candidate or any authorized committee or agent of

such candidate. If there is such cooperation or consultation or suggestion, an in-kind contribution results which then is subject to the contribution limits of Section 3.3 (a) immediately above.

5.4. Administration of Political Action Committees. — Political Action Committees formed pursuant to these regulations may govern themselves, and control and expend funds, in any manner not in violation of law.

#### **§146-1-6. Miscellaneous Provisions.**

6.1. No public utility or railroad may establish or aid in the establishment of, or administer or aid in the administration of, or solicit or aid in the solicitation of contributions to, or expend any funds on behalf of, an identifiable political party, or identifiable candidate, for any local or state office. However, as to any Political Action Committee that confines its activities exclusively to expenditures and communications on public issues, such Political Action Committee and any public utility or railroad with which it is associated shall have all the duties, powers, rights and obligations of any other Political Action Committee and/or corporation under these regulations.

6.2. Notwithstanding any provision of these regulations to the contrary, a corporation which customarily makes its meeting rooms available to clubs, civic or community organizations, or other groups may make such facilities available to a candidate, or a political party committee or political committee, if the meeting rooms are made available on a nonpartisan basis and on the same terms given to other groups using the meeting rooms.

6.3. All persons are prohibited from knowingly accepting or receiving any contribution, payment, distribution, loan, advance, deposit, gift of money or services or anything of value prohibited by these regulations.

6.4. Nothing in these regulations limits in any manner the reporting obligations of corporations or Political Action Committees or any other person under W. Va. Code §3-8-5.

#### **§146-1-7. Penalty Provision.**

7.1. Any person violating this rule shall be guilty a misdemeanor, and, upon conviction thereof, shall be fined not more than five thousand (\$5,000) dollars pursuant to W. Va. Code §3-8-8.

**TITLE 146  
LEGISLATIVE RULE  
ELECTION COMMISSION**

**SERIES 2  
FAIR CAMPAIGN PRACTICES**

**§146-2-1. General.**

**§146-2-2. Definitions.**

**§146-2-3. Code of Fair Campaign Practices.**

**§146-2-4. Advisory Opinions.**

**§146-2-5. Complaint and Hearing Procedures.**

**§146-2-1. General.**

1.1. Scope. — These rules establish the implementation of state law on the voluntary adherence to the “Fair Campaign Practices of 1995.” See W. Va. Code §3-1B-1, et seq.

1.2. Authority. — W. Va. Code §§3-1A-5, 6 and 3-1B-3

1.3. Filing Date. — May 24, 1996.

1.4. Effective Date. — June 7, 1996.

**§146-2-2. Definitions.**

2.1. “Campaign advertising or communication” means:

2.1.1. a communication, whether written or oral, authorized by a candidate or a candidate’s committee;  
and,

2.1.2. for the express purpose of publicly advocating the nomination, election or defeat of a candidate.

2.2. “Candidate for public office” means an individual:

2.2.1. who has filed a pre-candidacy statement, pursuant to W. Va. Code §3-8-5e; or

2.2.2. who has qualified to have his or her name listed on the ballot of any election; or

2.2.3. who has declared his or her intention to seek nomination or election for any state, regional, county, municipal or district office which is to be filled at an election through a petition or write-in procedure.

2.3. “Code” means the Code of Fair Campaign Practices, set forth in W. Va. Code §3-1B-5.

2.4. “Commission” means the state election commission created pursuant to the applicable provisions of W. Va. Code §3-1A-1 et seq.

2.5. “Political committee” means a committee organized by one or more individuals, corporations, associations, labor unions or organization, for the purpose of advocating or opposing the nomination or election of one or more candidates or the passage or defeat of one or more ballot issues.



2.6. “Advisory opinion” means a written opinion issued by the commission in response to a written request for such an opinion on the issue of whether or not an action, or proposed action, of a subscribing candidate violates the Code of Fair Campaign Practices;

2.7. “Subscribing candidate” means a candidate for public office who has voluntarily agreed to subscribe to, adhere to and endorse the Code of Fair Campaign Practices;

2.8. “Automatic release” means a release by operation of law, pursuant to the applicable provisions of W. Va. Code §3-1B-9, from the campaign spending limitations when a subscribing candidate’s opponent exceeds such campaign spending limitations.

2.9. “Election officer” means the officer or official who receives the pre-candidacy filings made by individuals running for public office, and includes the Secretary of State, the Circuit Clerk, the County Clerk, and the Municipal Clerk or Recorder.

### **§146-2-3. Code of Fair Campaign Practices.**

#### **3.1. Prescribed forms of code.**

3.1.1. It is the duty of the secretary of state, in consultation with the commission, to prescribe the forms to be used and to furnish the prescribed forms to the appropriate election officers in sufficient time and quantities, as may be requested by the election officers;

3.1.2. The prescribed forms are required to contain the full and complete text that is statutorily mandated by W. Va. Code §3-1B-5, except that the commission may increase the spending limitations established in the text at its discretion by properly promulgated legislative rule(s).

#### **3.2. Notice and an opportunity to subscribe to the Code is required when:**

3.2.1. an individual files his or her pre-candidacy statement, certificate of announcement, nominating petition and other paper evidencing his or her intention to be a candidate for public office; or

3.2.2. an individual files the statement of organization of a political committee.

3.3. At the time an election officer receives a filing, as outlined in §146-2-3.2 above, the election officer is required

3.3.1. to furnish the individual with the prescribed form containing the text of the Code of Fair Campaign Practices;

3.3.2. to advise the candidate of his or her opportunity voluntarily to subscribe to, adhere to and endorse the code;

3.3.3. to inform the candidate whether or not his or her opponent(s) have voluntarily subscribed;

3.3.4. to advise the candidate of the voluntary nature of his or her subscription to, adherence to and endorsement of the code; and,

3.3.5. to inform the candidate that in no event will any person be required to so subscribe to, adhere to

and endorse the code.

### 3.4. Forms of public information

3.4.1. The election officer receiving the filing is required to accept the candidate's completed forms at any and all times prior to the election;

3.4.2. Any election officer mistakenly receiving a completed form from a candidate (i.e. one which should have been filed with a different election officer) is required to forward the completed form immediately to the appropriate election officer, with a record of such kept until one hundred eighty (180) days after the election to which they pertain.

### **§146-2-4. Advisory Opinions.**

4.1. The commission may, at its discretion, issue advisory opinions in response to written requests for such on the issue of whether or not an action, or proposed action, of a subscribing candidate violates the code;

4.2. The opinion is required to be in writing, citing the particular part or portion of the code, or any other authority, being relied upon by the commission;

4.3. All advisory opinions issued are required to be published and indexed in the code of state rules by the secretary of state.

### **§146-2-5. Complaint and Hearing Procedures.**

The complaint will be in writing on the forms prescribed by the commission. The form will include, at least, the following sworn and notarized information:

5.1.1. The name, address and telephone number of the complainant; and

5.1.2. The name, address and telephone number of the subscribing candidate; and

5.1.3. A narrative section, which will include the complainant's allegations of violation(s) by the subscribing candidate, with as much particularly as possible requested on the face of the form; and,

5.1.4. The signature of the complainant, with a proper verification as is used in other civil cases, wherein the complainant affirms that he or she believes the allegations complained of are true and correct; and

5.1.5. Within five (5) days of receiving the written complaint, the commission will forward a copy of the complaint to the subscribing candidate, requesting a written answer to the alleged violations of the code; and,

5.1.6. Within ten (10) days of his or her receipt of the complaint, the subscribing candidate will file his or her answer; and

5.1.7. The answer of the subscribing candidate:

(a) will be made in writing, with the proper complaint number on the face of the answer; and

(b) should address each allegation made by the complainant; and

(c) will have the signature of the subscribing candidate, along with a statement swearing or affirm-

ing that the information contained in the answer is true and correct to the best of the candidate's knowledge.

5.1.8. Within ten (10) days of its receipt of the answer the commission will determine by a majority vote whether or not there is a reasonable likelihood that the candidate has violated the code.

5.1.9. If the subscribing candidate is determined not to have a reasonable likelihood of having violated the code, the candidate will be so advised in writing.

5.1.10. If the subscribing candidate is determined to have a reasonable likelihood of having violated the code, the candidate will be so informed in writing, together with a proper notice of his or her right to request a hearing before the commission within ten (10) days of the receipt of the determination and notice.

5.1.11. Should the subscribing candidate request a hearing before the commission, it will:

(a) be scheduled within ten (10) days after such request with written notice of such served upon both the complainant and the candidate; and

(b) be continued only for good cause shown.

5.1.12. At and during the hearing on the merits of the complaint, the commission:

(a) will conduct a hearing in a fair and impartial manner to both the complainant, and his or her witnesses, and the subscribing candidate, and his or her witnesses; and,

(b) need not strictly apply the Rules of Evidence, however, the evidence must be reasonably related to the issues in the complaint

(c) will in its discretion admit credible hearsay evidence; and

(d) will make its decision based on the greater weight of evidence presented at the hearing;

(e) will have a quorum present at the hearing and the decision must be agreed upon by a majority of those present.

5.1.13. Following the commission's review and deliberations over all of the evidence introduced and the entire record before it, the commission:

(a) may issue a public opinion stating that the subscribing candidate has committed a violation of the code, should the commission determine by majority vote that there was clear and convincing evidence supporting the alleged violation(s), or should the subscribing candidate decline to request such a hearing; or

(b) will issue a public statement that the subscribing candidate has not violated the code, should the commission determine by a majority vote that there was not clear and convincing evidence supporting the alleged violation(s). This public statement will be issued on the same day on which the hearing takes place, as required by W. Va. Code §3-1B-4.

**TITLE 146  
LEGISLATIVE RULE  
ELECTION COMMISSION**

**SERIES 3  
REGULATION OF CAMPAIGN FINANCE**

**§146-3-1. General.**

**§146-3-2. Definitions.**

**§146-3-3. Contributions for Primary and General Elections.**

**§146-3-4. Contributions for Inaugural Events.**

**§146-3-5. Contribution Limitations and Sources.**

**§146-3-6. Lawful Expenditures.**

**§146-3-7. Disposing of Excess Campaign Assets, Terminating a Political Committee.**

**§146-3-8. Receiving, Distributing and Reporting Contributions and Expenditures.**

**§146-3-9. State and Local Activity by Federal Committees.**

**§146-3-10. Solicitation for Political Purposes.**

**§146-3-11. Procedures for Levying Civil Penalties.**

**§146-3-12. Penalty Provision.**

**§146-3-1. General.**

1.1. Scope. — These rules clarify and provide for implementation of state law relating to the regulation of campaign finance, reporting requirements and prohibited activities. See W. Va. Code §3-8-1 et seq.

1.2. Authority. — W. Va. Code §§3-1A-5 and 3-1A-6.

1.3. Filing Date. — May 24, 1996.

1.4. Effective Date. — June 7, 1996.

**§146-3-2. Definitions.**

This section defines terms used in W. Va. §3-8 et seq. and terms used in this rule which are not otherwise defined in chapter three.

2.1. “Ballot issue” means a constitutional amendment, special levy, bond issue, local option referendum, municipal charter adoption or revision, an increase or decrease of corporate limits, or any other question placed before the voters under the provisions of the West Virginia Code.

2.2. “Ballot issue committee” means a political committee established solely for the purpose of advocating or opposing a ballot issue and which makes no expenditures to or on behalf of a candidate, political party or other political committee.

2.3. “Business affiliation” means the name of an individual’s employer, or the name of the firm, business or organization, if any, with which a self-employed individual is primarily affiliated.

2.4. “Candidate” means an individual who:

2.4.1. has filed a certificate of announcement under §3-5-7 or a municipal charter;

2.4.2. has filed declaration of candidacy under §3-5-23;

2.4.3. has been named to fill a vacancy on a ballot; or

2.4.4. has declared a write-in candidacy or otherwise publicly declared his or her intention to seek nomination or election to a state, district, county or municipal office or party office to be filled at any primary, general or special election.

2.5. “Candidate’s committee” means a political committee established with the approval of or in cooperation with one pre-candidate or candidate to explore the possibilities of seeking a particular office and/or to advocate his or her nomination or election to an office in one election cycle. If a candidate directs or influences the activities of more than one committee, those committees shall be considered one committee for the purpose of contribution limits.

2.6. “Contribution” means a gift subscription, assessment, payment for services, dues, advance donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether or not conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for political purposes, as defined herein. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected before it is received or returned within thirty (30) days and not used during that time for political purposes. A contribution does not include volunteer personal services provided without compensation.

2.7. “Election” means any primary, general or special election conducted under the provisions of this code or under the charter of any municipality.

2.8. “Financial agent” is, for the purposes of this rule, an individual designated to act on behalf of one candidate to conduct financial transactions for political purposes on behalf of that candidate.

2.9. “Grossly incomplete or grossly inaccurate” means that a financial statement as defined under W. Va. Code §3-8-5 is missing information required by W. Va. Code §3-8 and Title 146 of the West Virginia Code of State Rules.

2.10. “Inaugural committee” includes any person, organization or group of persons soliciting or receiving contributions for the purpose of funding an inaugural event for an elected state official.

2.11. “Inaugural event” means any event or events held between the date of the general election for a state public office and a date ninety days after the date of the general election, whether the event is sponsored by the inaugural committee or the state political party committee representing the party of the elected official and for which the elected official is a prominent participant or for which solicitations of contributions include the name of the elected official in prominent display.

2.12. “Nominal noncash expressions of appreciation” shall mean a token of appreciation, having a cash value of three dollars (\$3.00) or less, given to volunteer or paid campaign workers following the close of the polls or within 30 days thereafter.

2.13. “Occupation” means the principal work activity which is described by a general term such as teacher, miner, business executive, homemaker or doctor.

2.14. “Person” means an individual, partnership, committee, association, corporation, and any other organization or group of persons.

2.15. “Political committee” means an association of persons, an organization of any kind, or any two (2) or more persons acting together, wholly or in part, to receive or expend money or other thing of value for political purposes.

This definition shall include but not be limited to political party executive committees, other committees operating in conjunction with a political party or using a political party name, political action committees and any other organizations, whether temporarily or permanently established, using any portion of their funds for political purposes.

This definition shall not include family members or members of a partnership acting together to make joint or individual contributions to a candidate or political committee.

2.16. “Political purposes” means advocating or opposing the nomination, election or defeat of one or more candidates, supporting the administration or activities of an established political party or an organization which has declared itself a political party, supporting the administration or activities of a political committee, advocating or opposing the passage or defeat of a ballot issue, determining the advisability of becoming a candidate under the pre-candidacy financing provisions, and supporting the retirement of the debt of a candidate or political committee incurred for any of the above purposes.

2.17. “Pre-candidate” means, for the purpose of this rule, an individual who has filed a pre-candidacy statement under the provisions of W. Va. Code §3-8-5e but has not yet filed a certificate of announcement or declaration of candidacy. This definition does not exclude a pre-candidate from the requirements and prohibitions relating to candidates in West Virginia Code.

2.18. “Solicit” or “solicitation” means the act of asking, suggesting, requiring or inviting, either orally or in writing, a person or persons, organization of any kind, political committee or other entity to give a contribution or other thing of value for political purposes, as defined in this section.

2.19. “Treasurer” means an individual designated to act on behalf of a political committee to conduct the financial transactions of the committee. For the purposes of this rule, the term “treasurer” shall be used in place of “financial agent” as defined in W. Va. Code §3-8-4 when the individual acts on behalf of more than one candidate or person.

### **§146-3-3. Contributions for Primary and General Elections.**

This section establishes a means for distinguishing between primary and general election contributions, for the purpose of contribution limits established in W. Va. Code §3-8-12(f).

3.1. A contribution to a pre-candidate or pre-candidate’s committee is a contribution in connection with a primary election.

3.2. A contribution to a candidate or candidate’s committee is a contribution in connection with a primary election in the following circumstances:

3.2.1. For a candidate for nomination or election in the primary or for nomination by petition, all contributions received on or before the primary election day;

3.2.2. For a candidate nominated in the primary election, a contribution received after the primary which is designated in writing on the financial report, with the consent of the contributor, as a contribution for the primary election, providing the aggregate of all such designated contributions do not exceed the total of unpaid bills, loans or other financial obligations incurred for the primary election;

3.2.3. For a candidate defeated for nomination in the primary election, all contributions received after the primary, not to exceed the total of unpaid primary election expenses;

3.2.4. For a candidate for nomination in a party convention, all contributions received on or before the day of that convention.

3.3. A contribution to a candidate or candidate's committee is a contribution in connection with a general or special election in the following circumstances:

3.3.1. For a candidate nominated in a primary election or party convention, all contributions, except those designated as primary contributions under 3.2.2, received after the nomination and not later than the date when all debts, loans or other financial obligations of the general election campaign have been repaid;

3.3.2. For a candidate appointed to fill a vacancy on the general or special election ballot by a party executive committee, all contributions received in connection with the election and not later than the date when all debts, loans or other financial obligations of the general election campaign have been repaid.

3.4. A contribution to a political committee, other than a candidate's committee, acting for political purposes in both the primary and general election is a contribution:

3.4.1. In connection with a primary election if the contribution is received on or after the last Saturday in March of a non-election year and by the date of the primary election in the following calendar year (for example, from March 28, 1987, to May 10, 1988); and

3.4.2. In connection with a general election if the contribution is received after the date of a primary election and not later than the day before the last Saturday of March of the following calendar year (for example, from May 11, 1988, to March 24, 1989).

3.5. A contribution to a political committee acting for political purposes only in one election is a contribution in connection with that election.

#### **§146-3-4. Contributions for Inaugural Events.**

This section clarifies the provisions of W. Va. §3-8-2a which require the filings of statements for certain contributions to inaugural event committees.

4.1. An inaugural committee established for purpose of soliciting or receiving contributions for the funding of all or any part of an inaugural event for any person elected to any state public office must file a verified financial statement with the Secretary of State's Office relating to any contributions from one person in excess of two hundred fifty dollars (\$250.)

4.2. An inaugural committee shall file and retain detailed records of any contribution from one person in excess of two hundred fifty dollars (\$250.).

4.3. For purposes of this section, "detailed records" shall contain the following information:

4.3.1 The full name of each person, firm, association or committee; and,

4.3.2 The residence, mailing address and may include a business telephone number, if available; and,

4.3.3 In the case of an individual, the major business affiliation and occupation; and,

#### 4.3.4 The amount of contribution.

4.4. The inaugural committee, financial agent or any person or officer acting on behalf of such committee shall file a sworn and notarized financial statement, containing the above stated information for each person making a contribution in excess of two hundred fifty dollars (\$250.), within forty-five (45) days following the inaugural event.

4.5 The sworn and notarized financial statement shall be on a form prescribed by the State Election Commission.

4.6 Aggregate contributions of any person to any inaugural committee are not limited and do not fall within the contribution limitations imposed for any candidate in connection with a primary or general election.

4.7. Excess campaign funds, as defined in section 7 below, may not be transferred to an inaugural committee.

### **§146-3-5. Contribution Limitations and Sources.**

This section clarifies the application of the limitation on contributions established in W. Va. Code §§3-8-12(f) and 3-8-12(g), and the prohibition on corporate contributions in W. Va. Code §3-8-8.

5.1. Limitations on contributions to candidates for national elective office (including President, Vice President, U.S. Senate and U.S. House of Representatives) are established in Chapter 14, Title 2 of the United States Code and the Code of Federal Regulations and are not subject to regulation by the states. The Federal Election Commission regulates federal campaign activity. (FEC, 999 E Street, N. W., Washington, D.C. 20463 Telephone (800)424-9530)

5.2. Aggregate contributions from one person to a candidate or political committee in connection with a primary election may not exceed one thousand dollars (\$1,000). Aggregate contributions from one person to a candidate or political committee in connection with a general or special election may not exceed one thousand dollars (\$1,000). Aggregate contributions from one person to a State political party executive committee may not exceed one thousand dollars (\$1,000.) in any calendar year. The term person is defined by W. Va. Code §3-8-4.

5.3. A contribution made by a business licensed as a sole proprietorship is a contribution made by the owner of that sole proprietorship. The aggregate contribution limits apply to all contributions to a candidate or political committee made by that owner, whether from personal or business funds.

5.4. A contribution made by a business licensed as a partnership is a contribution which shall be apportioned to the ownership interest of the partners. The aggregate contribution limits apply to contributions to a candidate or political committee made by each partner whether from personal funds or from the contributor's share of partnership funds.

5.5. A husband and wife may each contribute one thousand dollars (\$1,000) to the same candidate or political committee in connection with the same election, regardless of the source of family income.

5.6. A contribution made by check drawn on a joint personal account shall be attributed to the person who signed the check, or equally to the persons signing the check, unless otherwise specified in writing by the contributor.

5.7. Minor children (children under eighteen (18) years of age) may contribute up to one thousand dollars



(\$1,000) to a candidate for an election if:

5.7.1. The decision to contribute is made knowingly and voluntarily by the minor child;

5.7.2. The funds, goods or services contributed are owned and controlled by the minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained in the child's name; and

5.7.3. The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed or is not in any other way controlled by another individual.

5.8. When a contributor designates all or part of a contribution for the benefit of a particular candidate and makes that contribution to a political committee acting with the approval or control of that candidate, the contribution shall be deemed to be an indirect contribution to the designated candidate and shall be subject to the aggregate contribution limits for that candidate.

5.9. A candidate or candidate's committee established for one primary and general election may transfer excess campaign assets to the same candidate's campaign or committee for a subsequent election year, and such a transfer shall not be limited by aggregate contribution limits.

5.10. The aggregate contribution by a person to a ballot issue committee is not limited; and corporate contributions to a ballot issue committee are not prohibited.

5.11. Transfers of contributions by a political committee established as a federal committee under the regulation of the Federal Election Commission (FEC) from the committee's federal account to a state account shall not be made for the purpose of allowing any contributor to exceed the maximum contribution per election to the state account.

5.12. If a candidate or candidate's committee has excess campaign funds at the time of filing the post election financial report, no further contributions may be accepted until the candidate files a pre-candidacy statement for a subsequent election.

5.13. If a candidate or candidate's committee has debts, outstanding loans or unpaid bills at the time of filing the post election financial report, further contributions may be accepted only until an amount sufficient to repay such debts and outstanding loans has been received.

#### **§146-3-6. Lawful Expenditures.**

This section clarifies the meaning of certain permissible expenditures of money and other things of value for election expenses for purposes enumerated in W. Va. Code §3-8-9.

6.1. Funds belonging to or received by a candidate or political committee for political purposes may be used to employ persons to perform those functions enumerated in W. Va. Code §3-8-9, either on a full-time, part-time or temporary basis, providing the provisions of Title 146, Code of State Rules, Series 4, are complied with.

6.2. Funds belonging to or received by a candidate or political committee for political purposes may be used for reasonable office expenses enumerated in W. Va. Code §3-8-9.

6.3. "Necessary traveling and hotel expenses" shall include mileage at a rate not to exceed the current state-mandated reimbursement rate per mile or direct charges for transportation and itemized food and lodging costs incurred specifically for the purpose of campaigning or conducting the organizational, political or financial

business of a political committee or candidate's campaign. The term shall not include the purchase cost of any vehicle, or expenditures for traveling and hotel expenses incurred for activities which result primarily in personal benefit and are not directly and specifically undertaken for political purposes.

6.4. No money or thing of value derived from contributions received by a candidate or political committee may be paid to or given to any person, except:

6.4.1. as lawful payment for goods provided, services rendered or reimbursement of expenses incurred for political purposes;

6.4.2. as food, entertainment or costs incidental to a fund-raising event or public meeting; or

6.4.3. as printed campaign promotional items of nominal value which clearly identify the candidate, or party; or

6.4.4. as a nominal noncash expression of appreciation to campaign workers as defined in section 2.17 above, following the close of the polls or within 30 days thereafter.

6.5. A candidate may be reimbursed from contributions received for lawful election expenses paid from the personal funds of the candidate, providing receipts are retained and those itemized expenditures are reported as required by law.

6.6. No candidate may receive any payment of money or other thing of value for personal use from funds solicited or received for political purposes on his or her behalf, except as reimbursement as provided in section 6.5.

6.7. Monies exceeding five dollars (\$5.00) in amount expended by any person for the printing, duplicating or distributing of a scorecard, voter guide, or other written analysis of a candidate's position or votes on specific issues within sixty (60) days of an election, or monies expended to distribute more than fifty (50) copies of such materials are an expense incurred for political purposes and shall be properly reported pursuant to W. Va. Code §3-8-1 et seq. The provisions of this subsection shall not apply to those exceptions as set forth in W. Va. Code §3-8-5(e)(2).

#### **§146-3-7. Disposing of Excess Campaign Assets, Terminating a Political Committee.**

This rule clarifies the methods of lawfully disposing of excess campaign assets, and the method for terminating a political committee pursuant to W. Va. Code §3-8-4a.

7.1. Excess campaign assets are those monies, materials, equipment or other things of value derived from contributions which are:

7.1.1. remaining in the possession of the pre-candidate or pre-candidate's committee at the conclusion of pre-candidacy when the pre-candidate decides not to become a candidate;

7.1.2. remaining in the possession of the candidate or candidate's committee at the conclusion of the campaign and after debts, loans and other liabilities are repaid; or

7.1.3. belonging to a political committee which wishes to discontinue activity and dissolve.

7.2. Excess campaign assets may be lawfully:

7.2.1. transferred from a candidate's committee organized for one election year to the same candidate's

committee for a subsequent election year, providing that candidate has filed a pre-candidacy statement and a statement of organization of the new committee before the transfer is made;

7.2.2. distributed for a lawful election expense enumerated in W. Va. Code §3-8-9 by making a contribution to one or more political party committees, other political committees or candidates; or

7.2.3. returned on a pro-rata basis to each contributor.

7.2.4. subject to Internal Revenue Service regulations relating to personal income, used by the candidate to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of public office;

7.2.5. contributed to any charitable organization; or

7.2.6. transferred, without limitation, to any national, state or local committee of any political party.

7.3. No person may receive or utilize excess campaign assets for personal economic benefit or use.

7.3.1. Subject to section 7.2.4 above, supplies or equipment purchased by an office holder and used to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of public office shall become the property of the state, or the district, county, or municipality in which the office is held.

7.4. No candidate, financial agent or treasurer may distribute excess campaign assets through personal gifts, promotional items or other expenditures not authorized by W.Va.Code §3-8-9.

7.5. A political committee which is solvent and has no outstanding debts or obligations may terminate its existence by;

7.5.1. filing a statement of dissolution with the Secretary of State if the political committee was formed in support of a candidate for nomination or election to any office to be filled by voters of the entire state, or a candidate for nomination or election for any office encompassing an election district larger than a county, or the passage or defeat of any issue, thing or item to be voted upon, encompassing an election larger than a county; or

7.5.2. filing a statement of dissolution with the county clerk or municipal clerk or recorder, or other such election officer as defined in 146CSR2-3.3.4 Code of Fair Campaign Practices, as may be deemed proper by the Secretary of State, if the political committee was formed in support of a candidate for nomination or election to any office to be filled by voters of a county or district therein, or for the passage or defeat of any issue, thing or item to be voted upon, encompassing the electorate of a county or district therein; and,

7.5.3. stating within such written request that the political committee will no longer receive any contributions or make any disbursements; and,

7.5.4. stating within such written request that the political committee has no outstanding debts or obligations; and,

7.5.5. stating within such written request that any excess funds of the political committee will be transferred to a political committee established by the same candidate, or established for the passage or defeat of the same issue, thing or item, or will be otherwise disbursed pursuant to section 6.2 above.

7.6. The Secretary of State's Office shall have the authority, upon the request of the committee, to make determinations as to the solvency or insolvency of a political committee, including

7.6.1 the orderly liquidation of an insolvent political committee; and

7.6.2. the orderly application of the assets of an insolvent political committee toward reduction of its outstanding debts; and

7.6.3. the assessment of any forgiven debts as being political contributions; and,

7.6.4. the termination of an insolvent political committee after the liquidation and application of assets.

#### **§146-3-8. Receiving, Distributing and Reporting Contributions and Expenditures.**

This section clarifies the handling and reporting requirements set forth in W.Va.Code §§3-8-2 through 3-8-7.

8.1. The treasurer of a political committee or receives all contributions and disburses all funds, and it is unlawful for a person or persons other than the treasurer to receive and disburse funds without the treasurer's knowledge and participation.

8.2. A candidate who does not appoint another person as financial agent or organize a candidate's committee and appoint a treasurer at least twenty-eight (28) days prior to the election at which he or she is to act shall be deemed to be the financial agent for his or her own campaign.

8.3. A financial report shall include all financial transactions occurring during the accounting period just completed, and any other financial transactions which have not been reported previously. Financial reports shall be in the form provided for in Addendum A of this rule

8.4. For the purpose of financial accounting and reporting, an election cycle is divided into accounting periods. The first accounting period brings on the date of the first financial transaction. The last day of each accounting period is the day before the next financial report may be filed. Accounting periods end of the following dates:

8.4.1. the day before the last Saturday in March of each year;

8.4.2. the eleventh day before the primary election;

8.4.3. the twenty-fourth day after the primary election;

8.4.4. the eleventh day before the general election; and

8.4.5. the twenty-fourth day after the general election.

8.5. Financial reports may be filed, pursuant to W.Va.Code §3-8-5b,

8.5.1. by mail; or,

8.5.2. in person; or,

8.5.3. by facsimile or other electronic means of transmission.

8.6. Filing dates for each method of delivery shall be determined as follows:

8.6.1. For mailings, the filing date shall be the date of the postmark of the United States Postal Service;

8.6.2. For hand delivery, the filing date, shall be the date of delivery to the proper reporting agency or entity during regular business hours of such office;

8.6.3. The facsimile or other electronic means of transmission, the filing date shall be the date of delivery to the appropriate reporting agency or entity during regular business hours of such office.

8.7. Financial statement which are delivered by facsimile or other means of electronic transmission shall be limited in length to fifteen (15) pages, including a cover page. When delivered by a facsimile or other electronic means of transmission, original signed and sworn financial statements shall be postmarked or hand delivered to the appropriate reporting agency or entity within twenty-four (24) hours of the date of the facsimile or other means of electronic transmission.

8.8. For the purpose of reporting contributions, a contribution occurs on the date the check, cash or other thing of value is received by the treasurer. No person acting as agent for the candidate, treasurer or committee shall knowingly withhold a contribution from the treasurer to prevent the reporting of the contribution until a later reporting period.

8.9. For the purpose of reporting unpaid bills, a liability is incurred on the date a bill for goods received or services rendered is received by the treasurer.

8.10. For the purpose of reporting expenditures, an expenditure is made on the date the treasurer writes the check or transfers cash to any person to pay for goods or services rendered. No transfer may be made to an intermediary to avoid reporting an expenditure in a particular reporting period.

#### **§146-3-9. State and Local Activity by Federal Committees.**

This rule clarifies the responsibilities and state reporting requirements of a political committee organized under the rules of the Federal Election Commission when that committee makes contributions to or direct expenditures on behalf of or in opposition to state or local candidates, political committees or ballot issues.

9.1. Nothing in this rule shall be construed to exempt a federal committee from the requirements of W. Va. Code §3-8-1 et seq. as to monies or other things of value received and disbursed for election expenses on behalf of state and local candidates, political committees and ballot issues.

9.2. When a federal committee maintains a state account, the treasurer shall not place in its federal account funds which have been designated by the contributor for use in state, district, county and municipal election activities. Such funds shall be placed directly into the state account, and shall be subject to state reporting requirements and contribution limits.

9.3. The treasurer of a federal committee may not knowingly transfer into a state account or disburse on behalf of a state or local candidate or political committee any portion of an individual contributor's contribution which exceeds one thousand dollars (\$1,000) per election.

9.4. A federal committee which maintains a state account may comply with state reporting requirements by filing reports on the forms prescribed by the Secretary of State under the rules and at the times required by West Virginia Code and the Code of State Rules.

9.5. A federal committee which maintains only a federal account may comply with state reporting require-

ments by filing with the applicable federal report an addendum itemizing in the manner required by West Virginia State Code and the Code of State Rules:

9.5.1. all contributions and loans received from West Virginia residents;

9.5.2. all liabilities incurred or expenditures made to or on behalf of any state or local candidate, political committee or ballot issue; or

9.5.3. an oath given by the treasurer that the addendum contains a true and correct report of all financial transactions relating to state and local candidates, political committees or ballot issues in West Virginia.

#### **§146-3-10. Solicitation for Political Purposes.**

This section clarifies lawful and unlawful practices relating to solicitations for political purposes.

10.1. No person may lawfully solicit and accept funds for political purposes on behalf of any individual before that individual becomes a pre-candidate or a candidate as defined herein.

10.2. No person may lawfully solicit and accept funds on behalf of any political committee before that committee files a statement of organization and the appointment of a treasurer.

10.3. No person may lawfully solicit and accept funds on behalf of any candidate or any elected official if no outstanding debt remains from a previous election, except in that a pre-candidate, candidate or political committee may solicit or accept funds if pre-candidacy papers have been filed for an upcoming primary or general election.

10.4. A person who solicits funds to retire a debt incurred for political purposes by a candidate or committee during a previous primary or general election is soliciting funds in connection with that campaign for nomination or election.

10.5. A solicitation which is broadcast by radio or television or published in a newspaper or other publication of general circulation shall not be deemed to violate any prohibition against solicitation of the members of specific groups.

10.6. A solicitation which is conducted randomly by such means as bulk mail to boxholders, broad literature distribution in a geographic area, or random-number telephone solicitations shall not be deemed to violate any prohibition against solicitation of the members of specific groups, providing solicitations of the members of specific groups are not knowingly and purposely included in the random solicitation.

10.7. A solicitation directed to individuals by name shall not be deemed to violate the prohibition against solicitation of public employees if that solicitation prominently contains the words "Please disregard if you are a public employee" or words to that effect, providing solicitations of members of prohibited groups are not knowingly and purposely included in the solicitation.

10.8. A solicitation specifically on behalf of one or more candidates for President, Vice President, U.S. Senate or U.S. House of Representatives is governed by the United States Code and the Code of Federal Regulations and is not subject to regulation by the state.

10.9. A solicitation within the state by a federal committee is subject to West Virginia Code and the West Virginia Code of State Rules, if all or part of any contribution received as a result of the solicitation is used to support one or more candidates in West Virginia.

### **§146-3-11. Procedures for Levying Civil Penalties**

This section establishes the procedures to be used to determine the implementation of W. Va. Code §3-8-7.

11.1. A campaign finance report shall not be found to be grossly incomplete or grossly inaccurate if:

11.1.1. the filing officer has notified, by certified mail, the individual or committee responsible for filing the report that the report is incomplete or inaccurate;

11.1.2. corrections to such report are received by the filing officer no later than ten (10) days after the individual or committee has been notified of such inaccuracies; and

11.1.3. in the case of a financial statement due not less than seven nor more than ten days preceding each primary or other election, corrections to the report are received by the filing officer no later than twenty-four (24) hours after the individual or committee has been notified of such inaccuracies or deficiencies.

11.2. A report shall considered to be delinquent if:

11.2.1. It is received after the deadlines established by W. Va. Code §3-8-5; and

11.2.2. bears a U.S. Postal Service postmark dated after such deadline.

11.3. A report shall not be considered delinquent if:

11.3.1. The report is filed late due to the death of the candidate, treasurer, or other individual responsible for filing such reports; or

11.3.2. The report is filed late due to a serious illness of the candidate, treasurer, or other individual responsible for filing such reports; and

11.3.3. A written notification of either death or serious illness is received by the filing officer no later than sixty days after the last day the financial statement is due. Upon receipt of such notification, the filing officer may grant an extension of time for the filing of the financial statement.

### **§146-3-12. Penalty Provision.**

12.1. Any person violating this rule shall be guilty a misdemeanor, and, upon conviction thereof, shall be fined not less than one thousand dollars, nor more than five thousand dollars, and shall be confined in jail for not less than six months nor more than one year.

**TITLE 146  
LEGISLATIVE RULE  
ELECTION COMMISSION**

**SERIES 4  
ELECTION EXPENDITURES**

- §146-4-1. General.**
- §146-4-2. Policy.**
- §146-4-3. Definitions.**
- §146-4-4. Exceptions.**
- §146-4-5. Payment Of Election Workers.**
- §146-4-6. Payment Of Campaign Staff.**
- §146-4-7. Reimbursement For Expenses Of Volunteer Election Workers.**
- §146-4-8. Employment Of Election Workers By Candidates Or Candidate's Authorized Committee.**
- §146-4-9. Employment Of Election Workers By Party Committees.**
- §146-4-10. Employment Of Election Workers By Political Action Committees.**
- §146-4-11. Forms.**
- §146-4-12. Severability.**
- §146-4-13. Penalties.**

**§146-4-1. General.**

1.1. Scope. — These legislative rules regulate the employment of election workers and regular campaign staff, rate of payment, method of payment, reporting requirements and forms utilized for compliance. These legislative rules apply to all municipal, county, state or national elections conducted in this State.

1.2. Authority. — W. Va. Code §§3-1A-5, 3-1A-6, 3-8-1, 3-8-11, 3-8-12, 3-9-12, 3-9-13, 3-9-16 and West Virginia Supreme Court of Appeals Order No. 16884

1.3. Filing Date. — May 24, 1996.

1.4. Effective Date. — June 7, 1996.

**§146-4-2. Policy.**

The Legislature through West Virginia Code subsection (d), section six, article one-a; section one, article eight; subsection (c), section eleven; subsection (e), section twelve, article eight; sections twelve, thirteen and sixteen, article nine, all of chapter three clearly addresses the intent of the Legislature to prevent the buying and selling of votes. Pursuant to statutory authority, it is the policy of the State Election Commission and the Secretary of State that unreasonable, excessive and grossly disproportionate expenditure of money in relation to services rendered represents the buying of votes or influence to obtain a public office. The following rules are established to carry out this policy.

**§146-4-3. Definitions.**

3.1. "Paid Campaign Staff" means an individual employed by a candidate, party committee or political action committee who works in excess of twenty (20) hours per week on a regular and continuing basis and who is paid a regular salary out of which is deducted withholding tax and social security obligations.

3.2. "Paid Election Worker" means an individual employed by a candidate, party committee or political



action committee on an intermittent, temporary or irregular basis.

3.3. “Volunteer Election Worker” means an individual providing services to a candidate or committee without pay or other compensation for services, not including expenses.

3.4. “Committee” means an association of persons organized to advocate the election or defeat of one or more candidates or the passage or defeat of one or more ballot issues, and which is required to file a statement of organization pursuant to West Virginia Code section four, article eight, chapter three no later than twenty-eight (28) days before the election.

3.5. “Candidate’s Authorized Committee” means a committee organized for the support of one (1) candidate with the knowledge and consent of that candidate.

3.6. “Party Committee” means the municipal, county, district or state executive committee of a political party.

3.7. “Political Action Committee” means a committee organized by one or more individuals, corporations, associations, labor unions or organizations for the purpose of advocating or opposing the nomination or election of one or more candidates or the passage or defeat of one or more ballot issues.

3.8. “Political Subdivision” means those precincts comprising the electoral district from which a candidate is to be elected. (i.e. senatorial district, delegate district)

#### **§146-4-4. Exceptions.**

4.1. Payments for contracted services with a person or business licensed to do business in the State of West Virginia are not limited by these regulations: Provided, however, That payments to election workers or campaign staff employed or provided by a licensed person or business on behalf of a candidate or committee are subject to these regulations. Such paid election workers employed for election day work will be calculated as part of the total paid workers allowed for that candidate or committee pursuant to Section 8 of these rules.

4.2. The number of volunteer election workers utilized on election day is not limited by these regulations.

#### **§146-4-5. Payment Of Election Workers.**

5.1. An election worker’s pay, including direct or indirect payments for expenses, shall not exceed six dollars (\$6.00) per hour up to a maximum of fifty dollars (\$50.00) per day regardless of the source or sources of the payment or the hours worked in any given day.

5.2. Payment shall be by check for any and all services provided or expenses incurred by any paid election worker.

5.3. Any check issued for payment to any paid election worker shall clearly indicate the name of the candidate or committee issuing the check, and the name and social security number of the person to whom the check is issued.

5.4. No check may be issued to any paid election worker before that worker has submitted to the candidate or committee an itemized statement on a form prescribed by the Secretary of State showing the specific work performed, the times and dates of the work and the amount of pay to be issued by the candidate or committee to the election worker for the work reported.

5.5. The candidate or committee shall attach all itemized statements, upon which payment was made, with the financial statement, for the reporting period during which the check was issued.

5.6. The candidate or committee shall comply with all Internal Revenue Service laws, regulations and reporting requirements as they relate to the payment of election workers.

#### **§146-4-6. Payment Of Campaign Staff.**

6.1. Paid campaign staff may be paid in excess of fifty dollars (\$50.00) per day, but such pay may not exceed that which is reasonable and fairly commensurate with similar services rendered in the private sector.

6.2. Payment shall be by check for any or all service provided by any paid campaign staff worker.

6.3. Any check issued for payment to any paid campaign staff worker shall clearly indicate the name of the organization or person issuing the check and the name and social security number of the person to whom the check is issued.

6.4. The candidate or committee shall file with the financial statement the names and social security number of each paid campaign staff worker employed during the reporting period covered by the financial statement, along with the job title, description of duties, rate of pay, beginning and ending employment dates and work schedule of each paid campaign staff worker.

6.5. The candidate, party committee or committee shall comply with all Internal Revenue Service laws, regulations and reporting requirements as they apply to the payment of campaign staff.

#### **§146-4-7. Reimbursement For Expenses Of Volunteer Election Workers.**

7.1. A candidate or committee may reimburse a volunteer election worker for actual expenses incurred up to a maximum of fifteen dollars (\$15.00) per day, except

7.1.1 That a volunteer election worker may, by presentment of a receipt or receipts for the expenditures, be reimbursed for out-of-pocket purchases of goods or services made for the candidate or committee. Such out-of-pocket expenditure reimbursements shall be reflected in the candidate's or committee's financial report.

7.2. Payment to a volunteer election worker for any and all expenses incurred shall be made by the candidate or committee by check.

7.3. A volunteer election worker who receives a total reimbursement for expenses of fifty dollars (\$50) or more during any election campaign shall submit to the candidate or committee an itemized statement on a form prescribed by the Secretary of State showing the date, the specific amount and purpose of each expense incurred, the name of each vendor paid and the total amount of reimbursement to be received.

7.4. Reimbursement for mileage shall not exceed the current state-mandated reimbursement rate per mile.

7.5. The candidate or committee shall attach any forms itemizing expenditures to the post election financial statement.

#### **§146-4-8. Employment Of Election Workers By Candidates Or Candidate's Authorized Committee.**

8.1. Each candidate or candidate's authorized committee, but not both, may employ paid election workers solely for the candidate's personal campaign: Provided, however, That within the limits of one (1) election

worker per precinct, as set forth in Section 8.2 of these rules, two (2) or more candidates or candidates' authorized committee may employ paid election workers only when the payment to each worker is equally divided among the candidates or committees.

8.2. Under no circumstances shall a candidate or candidate's authorized committee employ directly or indirectly in excess of one (1) paid election worker per number of precincts within the area the candidate is seeking to represent. The total number of election worker(s) employed to work within any political subdivision shall not exceed the total number of precincts in which the candidate appears on the ballot within that political subdivision. The candidate or candidate's authorized committee may employ any number of worker(s) per day per political subdivision, so long as the total number of worker-days do not exceed the number of precincts in the political subdivision. (Example: In a delegate district with thirty (30) precincts, thirty (30) workers may be employed for one (1) day; or, one (1) worker may be employed for thirty (30) days; or, three (3) workers may be employed for ten (10) days; or, any variation so long as the number of workers or worker-days do not exceed the total precincts within that delegate district).

8.3. A candidate or candidate's authorized committee may not make indirect contributions to other candidates or committees by having paid election workers drive voters, distribute literature or perform any other task on behalf of another candidate.

8.4. The candidate or candidates authorized committee shall comply with all Internal Revenue Service laws, regulations and reporting requirements as they apply to the payment of campaign staff.

#### **§146-4-9. Employment Of Election Workers By Party Committees.**

9.1. Each party committee may employ election workers: Provided, however, That a municipal executive committee may not employ election workers on any county, district or statewide election day and a county, district or statewide executive committee may not employ election workers on any municipal election day.

9.2. Any state party executive committee may employ not more than one (1) paid election worker per precinct within any county.

9.3. Any county executive committee, or combination of county and district executive committees of the same political party, may employ not more than one (1) election worker per precinct within a county.

9.4. Any municipal executive committee may employ not more than one (1) paid election worker per precinct within the city.

#### **§146-4-10. Employment Of Election Workers By Political Action Committees.**

10.1. Each political action committee may employ election workers.

10.2. Regardless of the number of candidates or issues supported or opposed by a political action committee, the total number of paid election workers employed by such committee to work within any county may not exceed the total number of precincts within that county in which candidates or issues supported or opposed appear on the ballot.

10.3. Each political action committee shall report the amount of expenditures made on behalf of each candidate or to promote the defeat of a candidate.

#### **§146-4-11. Forms.**

All forms necessary to comply with this rule shall be prescribed by the State Election Commission and available from the Secretary of State's office, county clerk's office, and the municipal election officer.

**§146-4-12. Severability.**

If any provision of these rules or the application to any person or circumstances shall be held invalid, such invalidity shall not affect the provision or application of these regulations which can be given effect without the invalid provision or application and to this end the provisions of these regulations are declared to be severable.

**§146-4-13. Penalties.**

Penalty for violation shall be as prescribed in W. Va. Code §3-9-23, as a misdemeanor, and, upon conviction shall be fined not more than one thousand dollars (\$1,000), or, in the discretion of the court, be confined in jail for not more than one (1) year.